

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SUSAN GOODWIN,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 09-2769
)	
GROUND ZERO BLUES CLUB-)	
MEMPHIS, LLC., NATOSHA)	
HUFFSTICKLER and ANTHONY)	
BURNS,)	
)	
Defendants.)	

ORDER

Plaintiff Susan Goodwin ("Goodwin") brings suit against Defendant Ground Zero Blues Club-Memphis, LLC ("Ground Zero") for back pay, liquidated damages, and attorney's fees and costs under the Fair Labor Standards Act ("FLSA"), 29 U.S.C §§ 201, et seq. Goodwin filed a Motion for Entry of Default against Ground Zero on March 27, 2012. (ECF No. 32.) On April 3, 2012, the Clerk of the Court denied Goodwin's Motion because "[i]n accordance to [Federal Rule of Civil Procedure] 55(a), service was not made upon Ground Zero." (Order Granting in Part and Denying in Part Motion for Entry of Default, ECF No. 33.)

Ground Zero has not been served subsequently, and the time to serve Ground Zero has expired.

On February 1, 2013, the Court issued an Order to Show Cause why Ground Zero should not be dismissed from this action. (ECF No. 36.) Goodwin has not responded. Service of process, or a waiver of service, is a prerequisite to a court's personal jurisdiction over a defendant in every civil action. Harris v. City of Cleveland, 7 Fed. Appx. 452, 455 (6th Cir. 2001) ("Without such ... service, a district court is without jurisdiction to render judgment against the defendant.") If "a defendant is not served within 120 days after the complaint is filed the court ... must dismiss the action without prejudice against that defendant or order that service be made within a specific time." Fed. R. Civ. P. 4(m). Goodwin has not served Ground Zero, obtained a waiver of service, or shown good cause to extend the time for service. See Id. Therefore, Goodwin's claim against Ground Zero is DISMISSED without prejudice.

So ordered this 20th day of February, 2013.

s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE